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10/733,148

12/12/2003

Peter Adema

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05/19/2006

ADAM K. SACHAROFF

MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC

191 N. WACKER DRIVE

SUITE 1800

CHICAGO, IL 60606-1615

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,148

Applicant(s)

ADEMA, PETER

Examiner

Melvin A. Cartageria

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 27-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-15, 18 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,003,731 to Post et al.

Post shows a dispensing device 100 for dispensing viscous fluids, such as hair dye contained in containers as seen in Figs. 16-25, having a frame 102, frame spindles 103 and 104, magazines formed by 115 and 116 that are rotatable about the frame spindles and have a plurality of receiving stations 106 that are designed to receive an exchangeable storage container 101.

When the storage container is substantially empty, it can be replaced by a second container that is filled with substance, see column 10, lines 29-32.

Post also shows a driving means, seen in Fig. 20, telescopically displaceable pumps and pump actuating arms 131 and 133 at the dispensing stations to pump the content of the container out of the container into a collection container in standing station 41, see column 9, lines 63-67 and column 10, lines 1-22, nozzle and associated dispensing channel 125.

In reference to claim 4:

See Figs. 25a-25c.

In reference to claims 9 and 13:

The volume of the containers is monitored, see column 10, lines 23-32.

In reference to claim 12

The valve is self-closing by a spring 148.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,003,731 to Post et al. in view of US 4,967,938 to Hellenberg.

Post shows all claimed features as discussed above but is silent about the drive means being a stepper motor. Hellenberg shows a paint dispensing apparatus with a rotatable magazine 44 driven by a stepper motor 268. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Post to include a stepper motor to drive the magazine as taught by Hellenberg to make the magazine controllable in opposite directions of rotation.

5. Claims 16, 17, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,003,731 to Post et al. in view of US 4,331,262 to Snyder et al.

Post shows all claimed features as discussed above except for the use of an optical sensor to monitor the volume of the containers. Snyder shows a fluid dispenser using an optical sensor 21 and a light source 19 to monitor the volume in a receiver transparent container 16. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Post to include optical sensors to monitor the volume of the product

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containers as taught by Snyder to maintain the system actualized on the amount of material left in the containers.

6. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,003,731 to Post et al. in view of US 6,021,362 to Maggard et al.

Post shows all claimed features as discussed above except for wireless communication between the electronic components. Maggard shows a dispensing apparatus using wireless communication. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use wireless communication between the electronic components in the device of Post as taught by Maggard to increased the device portability.

7. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,003,731 to Post et al. as modify by US 4,331,262 to Snyder et al. as applied to claim 13 above, and further in view of US 6,183,077 to Hmelar et al.

The Post-Snyder combination claimed all features as discussed above except for a container with keys to identify the content of the container. Hmelar shows an apparatus with keyed ink container 131 to identify the content of the container. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of the Post-Snyder combination to include keys in the container as taught by Hmelar to provide the system with the correct parameters and quick electronic identification of the content of the container.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,003,731 to Post et al. as modify by US 4,331,262 to Snyder et al. as applied to claim 13 above, and further in view of US 4,967,938 to Hellenberg.

The Post-snyder combination claimed all features as discussed above except for means for stirring the product in the containers. Hellenberg shows a dispensing apparatus with stirring means 56 to stir the content of the container. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of the Post-snyder combination to include a stirring device to assure each colorant in each container is thoroughly mix to maintain uniformity from one mix batch to the next.

Response to Arguments

9. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAC 4/27/06
MAC


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700